LESSONS FROM RECENT BSA/AML ENFORCEMENT ACTIONS

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Headnotes

- Level of enforcement activity notable – a continued area of emphasis in a de-regulatory climate
- Remember these are allegations – and history is written by the victors (i.e., the Government)
- Consider relationship between sound BSA/AML compliance and consumer protection – as activist State AGs increase their enforcement of consumer protection laws
Headnotes (cont’d)

- In reading the various orders:
  - The sweep of the Government’s power under the BSA is apparent
  - What is not always apparent is that the institutions affected are being abused by the bad actors: a blurring of the institution and its personnel with the bad actor

- Comptroller of the Currency says BSA enforcement has evolved into “a series of gotchas”
  - We agree – but suggest under the current BSA regime that avoiding the negative narrative is worthwhile
Common Themes

- “Tone at the Top”*: Lack of executive buy-in to AML compliance, resulting in lack of resources allocated to AML program, insufficient staffing and ineffective internal controls

- Failure to Follow Through: Consistent failure to remedy identified failures in AML program and to investigate and act on known or suspected criminal activity by customers, often involving high-risk foreign jurisdictions

*FinCEN Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance, FIN-2014-A007 (Aug. 11, 2014)
Common Themes

- **Growth Outstrips Compliance**: Failure of AML infrastructure to keep pace with growth, resulting in systemic deficiencies and gaps in internal controls

- **Third Parties**: Inadequate oversight over third-party relationships, including:
  - Agent locations (money transfer)
  - MSBs (large and small banks)
  - Correspondent accounts (banks and broker - dealer)
Key Allegations
Agent locations complicit in fraud and money laundering, company failed to detect and report suspicious activity, and in some cases facilitated such activity

Click here to view the Assessment of Civil Money Penalty
Key Allegations
Inadequate initial and ongoing due diligence over MSB and correspondent banking relationships, resulting in multiple failures of AML program requirements

Click here to view the Assessment of Civil Money Penalty
Click here to view the Consent order for a Civil Money Penalty
Key Allegations

OCC consent order requiring assessment and overhaul of bank’s AML compliance infrastructure, policies and procedures

Click [here](#) to view the Consent Order
Key Allegations

Virtual currency exchange effectively laundered bitcoin on behalf of criminals around the world; wholesale failure to comply with BSA because not registered MSB

Click [here](#) to view the Assessment of Civil Money Penalty
Key Allegations

Inadequate customer risk profiling, suspicious activity monitoring and reporting procedures, resulting in failure to detect and report suspicious activity

Click here to view the Assessment of Civil Money Penalty
Key Allegations
Noncompliance with 2012 OCC consent order finding violations of BSA compliance program, SAR filing and correspondent banking requirements

Click [here](#) to view the Consent Order for a Civil Money Penalty
Key Allegations

Inadequate transaction monitoring and reporting; failure to develop adequate CDD and EDD processes, insufficient BSA staff and training; failure to cooperate with law enforcement

Click here to view the Consent Order for a Civil Money Penalty
Key Allegations

Inadequate system of internal controls; systemic deficiencies in transaction monitoring, SAR filing, CDD, EDD and customer risk rating processes

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Key Allegations
Organizational failure to adequately fund and support AML program, resulting in systemic deficiencies in nearly all aspects of AML compliance

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Click here to view the Consent Order
Key Allegations

Failures in risk assessment and risk management at enterprise level; systemic deficiencies in AML compliance for RDC and correspondent banking services; failure to identify suspicious transactions and file SARS

Click [here](#) to view the Consent Order
Key Allegations

Failure to adequately monitor accounts and transactions for red flags; noncompliance with due diligence requirements applicable to foreign correspondent accounts

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THANK YOU!

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